



1FW

+

TRANSMITTAL FORM <i>(to be used for all correspondence during pendency of filed application)</i>		Application Number	10/610,967
		Filing Date	June 30, 2003
		First Named Inventor	Shaoher X. Pan
		Group Art Unit Number	2871
		Examiner Name	Unknown
Total Number of Pages in This Submission	3	Attorney Docket Number	23340-08024

ENCLOSURES (check all that apply)	
<input type="checkbox"/> Fee Transmittal Form (in duplicate) <input type="checkbox"/> Check Enclosed	<input type="checkbox"/> Issue Fee Transmittal
<input checked="" type="checkbox"/> Return Receipt Postcard	<input type="checkbox"/> Letter to Chief Draftsperson
<input type="checkbox"/> Response to Notice to File Missing Parts	<input type="checkbox"/> Formal Drawing(s): [] Sheet(s) of Figure(s) []
<input type="checkbox"/> Assignment & Recordation Cover Sheet	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Declaration	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Power of Attorney	<input type="checkbox"/> Certified Copy of Priority Document(s)
<input type="checkbox"/> Application Data Sheet	<input type="checkbox"/> After Allowance Communication to Group
<input type="checkbox"/> Information Disclosure Statement & PTO/SB/08A <input type="checkbox"/> Copies of IDS Cited References	<input checked="" type="checkbox"/> Reconsideration to Clarify Petition to Exclude Under MPEP 106
<input type="checkbox"/> Request for Corrected Filing Receipt	<input type="checkbox"/> Certificate Under 37 CFR §3.73(b) w/2 attachments
<input type="checkbox"/> Request for Correction of Recorded Assignment	<input type="checkbox"/> Copy of document entitled "Power of Attorney to Prosecute Applications Before the USPTO"
<input type="checkbox"/> Amendment/Response: [] Page(s)	<input type="checkbox"/> _____
<input type="checkbox"/> After Final	<input type="checkbox"/> _____
<input type="checkbox"/> Status Request	<input type="checkbox"/> _____
<input type="checkbox"/> Revocation and Substitute Power of Attorney	<input type="checkbox"/> _____
REMARKS:	

SIGNATURE OF ATTORNEY OR AGENT			
Signature:			
Attorney/Reg. No.:	Jennifer R. Johnson / Reg. No. 50,784	Dated:	June 10, 2004

CERTIFICATE OF MAILING			
I hereby certify that this correspondence, including the enclosures identified above, is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below. If the Express Mail Mailing Number is filled in below, then this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service pursuant to 37 CFR 1.10.			
Signature:			
Typed or Printed Name:	Jennifer R. Johnson	Dated:	June 10, 2004
Express Mail Mailing Number (optional):			



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Shaoher X. Pan, Xiao Yang
APPLICATION NO.: 10/610,967
FILING DATE: June 30, 2003
TITLE: Fabrication of a High Fill Ratio Reflective Spatial Light Modulator
with Hidden Hinge
EXAMINER: Not yet known
GROUP ART UNIT: 2817
ATTY. DKT. NO.: 23340-08024

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petitions, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22311, on the date shown below:

Dated: June 10, 2004

By: 

Jennifer R. Johnson, Reg. No. 50,784

MAIL STOP PETITIONS
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

**RECONSIDERATION TO CLARIFY
PETITION TO EXCLUDE UNDER MPEP 106**

On May 19, 2004, Petitions Examiner, Brian Hearn, dismissed Assignee's Petition to Exclude Applicant from Access to Application Authorized Under MPEP § 106 filed on January 28, 2004, on the grounds that the patent application will be published and publicly available as of December 2, 2004.

This letter is responsive to the dismissal and a telephone call between Assignee's representative and Patricia Faison, Petitions Attorney, on June 8, 2004. During that call, Assignee's representative explained what is believed to be a misunderstanding as to what the Assignee intended to request, and in response Ms. Faison recommended submission of this Reconsideration to Clarify.

In their Petition to Exclude Applicant from Access to Application Authorized Under MPEP 106, the Assignee requested that co-inventor Shaoher X. Pan (hereinafter "Dr. Pan") be excluded from access to the application as permitted under MPEP 106. Petitions Examiner Brian Hearn understood this request to mean that the Assignee sought to exclude Dr. Pan from access to the application-as-filed, which will be published as of December 2, 2004.

However, the Assignee sought to exclude Dr. Pan from "access to the application to see that it is being prosecuted properly" as described in MPEP 106. In other words, the Assignee sought to have sole control of the prosecution of the application rest with the Assignee, represented by Fenwick & West LLP. MPEP 106 indicates that if a specific request to exclude is made and granted, the Applicant (Dr. Pan) "will only be permitted to inspect the application on sufficient showing why such inspection is necessary to conserve his or her rights." As shown by documentation submitted with the aforementioned petition, all right, title, and interest has been transferred by written assignment to Miradia Inc.

Therefore, exclusion of Dr. Pan from access as discussed in MPEP 106, and more particularly, control of the prosecution is that which the Assignees sought to request by the petition, rather than access to the application-as-filed. Thus, Assignees respectfully request that Examiner reconsider dismissal of the petition.

Respectfully submitted on behalf of Miradia Inc.

Dated: June 10, 2004

By: 

Jennifer R. Johnson, Reg. No. 50,784

Fenwick & West LLP

Silicon Valley Center

801 California Street

Mountain View, CA 94041

Tel.: (650) 335-7213

Fax.: (650) 938-5200